

AMENDED IN ASSEMBLY MARCH 12, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 13**

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**Introduced by Assembly Member ~~Salas~~ Members *Salas and Buchanan***  
***(Principal coauthor: Assembly Member Huffman)***

December 1, 2008

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An act to add Division 29 (commencing with Section 80500) to the Water Code, relating to the Sacramento-San Joaquin Delta.

LEGISLATIVE COUNSEL'S DIGEST

AB 13, as amended, Salas. Sacramento-San Joaquin Delta Conservancy.

Existing law authorizes various conservancies to acquire, manage, direct the management of, and conserve public lands in the state.

This bill would establish the Sacramento-San Joaquin Delta Conservancy to provide policy oversight, foster implementation of, and manage funds to implement ~~those components of, a comprehensive delta sustainability program intended to restore and manage habitat~~ *the restoration and management of habitat and lands in the Sacramento-San Joaquin Delta and Suisun Marsh, and to develop and implement projects to address the economic viability of the Delta region, consistent with a comprehensive Delta sustainability program.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Division 29 (commencing with Section 80500) is added to the Water Code, to read:

DIVISION 29. SACRAMENTO-SAN JOAQUIN DELTA  
CONSERVANCY

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

80500. This division shall be known, and may be cited, as the Sacramento-San Joaquin Delta Conservancy Act.

80501. The Legislature finds and declares all of the following:

(a) The Sacramento-San Joaquin Delta is a unique and valued area, warranting recognition and special legal status from the State of California. The ~~delta~~ Delta is a place of natural beauty, with historic towns, productive farming, and close-knit communities. The ~~delta~~ Delta is an integral part of the largest estuary on the West Coast of the Americas, connecting rivers originating in the Sierra Nevada to the Pacific Ocean. The ~~delta~~ Delta is also an indispensable part of the Pacific Flyway. These values should be preserved and protected.

(b) Numerous federal, state, and local agencies have overlapping and conflicting legal responsibility and authority to protect the ~~delta~~ Delta, but no single agency has the authority for restoration of the ~~delta~~ Delta ecosystem. In recent years, the Department of Fish and Game has reported substantial declines in the ~~delta's~~ Delta's ecosystem health. Several agencies, including the Department of Water Resources, have participated in interagency efforts to address the ~~delta~~ Delta ecosystem crisis, but recent years have seen interagency conflict over the manner in which best to protect the ~~delta~~ Delta ecosystem.

(c) In ~~2007~~ 2008, the Delta Vision Blue Ribbon Task Force, created pursuant to Executive Order S-17-06, adopted a comprehensive, long-term vision for the delta, which includes, as its first principle, that the delta ecosystem and a reliable water supply "are the primary, co-equal goals for sustainable management of the Delta." The Delta Vision Blue Ribbon Task Force also recommends improvements to governance of the delta, including delta boundaries that incorporate the entire delta ecosystem. There

1 is a need for an agency that can implement comprehensive delta  
2 ecosystem improvements consistent with the vision proposed by  
3 the Delta Vision Blue Ribbon Task Force. *strategic plan for the*  
4 *Delta. The strategic plan states that a healthy Delta ecosystem*  
5 *and sustainable Delta water supply are of coequal importance.*

6 (d) *The Delta Vision Blue Ribbon Task Force recommends the*  
7 *statutory creation of a Delta conservancy to implement ecosystem*  
8 *restoration projects to achieve the ecosystem goals of the strategic*  
9 *plan or a subsequent comprehensive plan for Delta sustainability.*

10 80502. For the purposes of this division, the following terms  
11 have the following meanings:

12 (a) “Bay-Delta Conservation Plan” means the plan prepared  
13 pursuant to the Planning Agreement regarding the Bay Delta  
14 Conservation Plan, dated October 6, 2006.

15 (b) “Blue Ribbon Task Force” means the Delta Vision Blue  
16 Ribbon Task Force created by Executive Order S-17-06.

17 (c) “Board” means the governing board of the Sacramento-San  
18 Joaquin Delta Conservancy.

19 (d) “Comprehensive—delta Delta sustainability program” or  
20 “program” means a comprehensive—delta Delta sustainability  
21 program intended to restore and manage habitat *and restore*  
22 *ecosystem function* in the Sacramento-San Joaquin Delta and  
23 Suisun Marsh *and to preserve the economic viability of the Delta.*

24 (e) “Conservancy” means the Sacramento-San Joaquin Delta  
25 Conservancy.

26 (f) “Delta” means the Sacramento-San Joaquin Delta as defined  
27 in Section 12220.

28 (g) “Delta counties” means the Counties of Contra Costa,  
29 Sacramento, San Joaquin, Solano, and Yolo.

30 (g)

31 (h) “Habitat conservation plan” means a plan prepared under  
32 Chapter 10 (commencing with Section 2800) of Division 3 of the  
33 Fish and Game Code, or a plan prepared under Section 10 of the  
34 federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.).

35 (h)

36 (i) “Local public agency” means a city, county, district, or joint  
37 powers authority.

38 (i)

39 (j) “Nonprofit organization” means a private, nonprofit  
40 organization that qualifies for exempt status under Section

501(c)(3) of Title 26 of the United States Code, and that has among its principal charitable purposes preservation of land for scientific, recreational, scenic, or open-space opportunities; protection of the natural environment, or preservation or enhancement of wildlife; preservation of cultural and historical resources; or, efforts to provide for the enjoyment of public lands.

(k) “*Regional conservancy*” means a conservancy within the Natural Resources Agency.

## CHAPTER 2. SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY

80505. (a) There is in the Natural Resources Agency the Sacramento-San Joaquin Delta Conservancy, which is created as a state agency for the purposes of, and to carry out the authority given to it under, this division.

(b) The conservancy shall provide policy oversight, foster implementation of, and manage funds to implement, ~~those components of a comprehensive delta sustainability program intended to restore and manage habitat in the delta and Suisun Marsh.~~ *the restoration and management of habitats and lands for the sustainability of native species biodiversity and ecosystem function, consistent with a comprehensive Delta sustainability program. Consistent with that program, the conservancy shall also develop and implement projects to address the economic viability of the Delta region.*

80506. (a) The board shall consist of ~~seven~~ 11 voting members as follows:

(1) The Secretary of the Natural Resources Agency, or his or her designee.

~~(2) Two public members appointed by the Governor.~~

~~(3) Two public members appointed by the Speaker of the Assembly.~~

~~(4) Two public members appointed by the President Pro Tempore of the Senate.~~

(2) *The Director of Finance, or his or her designee.*

(3) *Five members, each of whom shall represent one of the Delta counties, selected by the board of supervisors of each county. An alternate shall be selected for each of these members by the board of supervisors of each Delta county.*

(4) *Two public members appointed by the Governor.*

1 (5) *One public member appointed by the Speaker of the*  
2 *Assembly.*

3 (6) *One public member appointed by the Senate Committee on*  
4 *Rules.*

5 (b) *The board shall also include the following ex officio,*  
6 *nonvoting members:*

7 (1) *The Director of Fish and Game, or his or her designee.*

8 (2) *The Chair of the State Water Resources Control Board, or*  
9 *his or her designee.*

10 (3) *An executive officer of the San Francisco Bay Conservation*  
11 *and Development Commission, or his or her designee.*

12 (4) *An executive officer of the State Coastal Conservancy, or*  
13 *his or her designee.*

14 (c) *The conservancy shall request nonvoting participation by*  
15 *appropriate federal agencies.*

16 (d) *Each Delta member, as described in paragraph (3) of*  
17 *subdivision (a), shall serve a five-year term, except for those*  
18 *initially selected. The initial members shall select from among*  
19 *themselves one member to serve one year, one member to serve*  
20 *two years, one member to serve three years, one member to serve*  
21 *four years, and one member to serve five years. The Delta members*  
22 *may be reappointed at the end of their term and any vacancy during*  
23 *a term of office may be filled by the appointing entity.*

24 ~~(b)~~  
25 (e) *Each public member shall be appointed for a four-year term,*  
26 *except that one of the public members initially appointed by the*  
27 *Governor shall serve a one-year term, one of the public members*  
28 *initially appointed by the Speaker of the Assembly shall serve a*  
29 *two-year term, and one of the public members initially appointed*  
30 *by the President Pro Tempore of the Senate shall serve a three-year*  
31 *term. Public members may be reappointed at the end of their term*  
32 *and any vacancy during a term of office may be ~~filed~~ filled by the*  
33 *appointing entity.*

34 ~~(e)~~  
35 (f) *The public members shall ~~reflect~~ be selected to reflect either*  
36 *the diversity of interests in the delta, including local governments*  
37 *whose jurisdictions include parts of the delta in the Delta or*  
38 *statewide interests as they relate to the authorities and mission of*  
39 *the conservancy. Public members shall be compensated for*  
40 *attendance at regular meetings of the board at the rate of one*

1 hundred dollars (\$100) per day and shall be reimbursed for actual  
2 reasonable and necessary expenses for attending meetings and  
3 carrying out the duties of their office.

4 ~~(d)~~

5 (g) The members shall elect annually from among them a chair  
6 and vice chair and other officers as necessary.

7 ~~(e)~~

8 (h) A majority of the members shall constitute a quorum for the  
9 transaction of the business of the board, and a majority vote of the  
10 members present at a meeting where a quorum exists shall be  
11 binding with respect to all matters acted on by the board.

12 ~~(f)~~

13 (i) The board shall appoint an executive officer of the  
14 conservancy and employ other staff as necessary to execute the  
15 powers and functions provided for under this division.

16 ~~(g)~~

17 (j) The board may rent or own real property and equipment  
18 pursuant to applicable statutes and regulations.

19 ~~(h)~~

20 (k) The board may enter into contracts with private entities and  
21 public agencies to procure consulting and other services to achieve  
22 the purposes of this division.

23  
24 CHAPTER 3. POWERS, DUTIES, AND LIMITATIONS  
25

26 80510. (a) Except as provided in subdivision (b), the  
27 jurisdiction and activities of the conservancy are limited to the  
28 ~~delta~~ Delta and Suisun Marsh.

29 (b) The conservancy may take or fund an action outside of the  
30 ~~delta and Suisun Marsh if requested by an entity responsible for~~  
31 ~~implementation of a habitat conservation plan, including the~~  
32 ~~Bay-Delta Conservation Plan, or if it is an action recommended~~  
33 ~~by the Blue Ribbon Task Force, where the action would further~~  
34 ~~the goals of the habitat conservation plan or the Blue Ribbon Task~~  
35 ~~Force and any necessary permission or permits from local public~~  
36 ~~agencies and the owner of any real property involved have been~~  
37 ~~obtained. Delta and Suisun Marsh if the board makes all of the~~  
38 *following findings:*

39 (1) *The project is consistent with the ecosystem goals of the*  
40 *comprehensive Delta sustainability program.*

1     (2) *The project will result in measurable benefits to the Delta*  
2 *ecosystem.*

3     (3) *The conservancy has given notice to, and will coordinate*  
4 *with, respective local jurisdictions, and where applicable, regional*  
5 *conservancies where the project is located.*

6     (c) This division does not limit, expand, or otherwise affect the  
7 authorities and responsibilities of any local public agency, state  
8 department or agency, or agency of the United States, except that  
9 the conservancy has the authority to review and approve ecosystem  
10 projects located within the boundaries of the ~~delta~~ Delta proposed  
11 for implementation by any other state agency, to determine  
12 consistency with the comprehensive ~~delta~~ Delta sustainability  
13 program.

14     ~~(d) In carrying out its activities under this division, the~~  
15 ~~conservancy shall cooperate, coordinate, and consult as necessary~~  
16 ~~or appropriate with any other agency or department of the state,~~  
17 ~~local public agency, or agency of the United States having~~  
18 ~~regulatory or other responsibility that may be affected by an action~~  
19 ~~of the conservancy.~~

20     (e)

21     (d) The conservancy has no power to regulate land use or any  
22 activities on land, except as the owner of an interest in the land,  
23 or pursuant to an agreement with, or a license or grant of  
24 management authority from, the owner of an interest in the land,  
25 or as specified in an agreement with a person or entity to which  
26 the conservancy has transferred an interest in land, or which has  
27 accepted a grant to manage an interest in land for the purposes of  
28 this division.

29     80511. ~~(a) The conservancy shall implement ecosystem aspects~~  
30 ~~of the comprehensive delta sustainability program. The~~  
31 ~~conservancy is responsible for overseeing and managing funds~~  
32 ~~available for implementation of those components of the program~~  
33 ~~intended to restore and manage habitat in the delta and Suisun~~  
34 ~~Marsh.~~

35     ~~(b) The conservancy may make grants or loans to local public~~  
36 ~~agencies, nonprofit organizations, state agencies, and federal~~  
37 ~~agencies for the purpose of implementing those measures identified~~  
38 ~~in the program intended to restore and manage habitat in the delta~~  
39 ~~and Suisun Marsh, including grants or loans for the acquisition of~~  
40 ~~real property or interests therein from willing sellers or transferors.~~

1     ~~(e) The conservancy may use funds to directly undertake, or~~  
2     ~~contract with public agencies, nonprofit organizations, state~~  
3     ~~agencies, and federal agencies to undertake under its direction,~~  
4     ~~actions identified in the program intended to restore and manage~~  
5     ~~habitat in the delta and Suisun Marsh.~~

6     ~~(d) The conservancy may enter into agreements and~~  
7     ~~intergovernmental agreements with local public agencies, nonprofit~~  
8     ~~organizations, state agencies, and federal agencies for the~~  
9     ~~implementation, including construction, of the measures identified~~  
10    ~~in the program intended to restore and manage habitat in the delta~~  
11    ~~and Suisun Marsh.~~

12    ~~80512. (a) The conservancy may accept, acquire, and hold~~  
13    ~~real property and interests therein from willing sellers or transferors~~  
14    ~~in the name of, and on behalf of, the state for the purposes of~~  
15    ~~implementing the comprehensive delta sustainability program.~~

16    ~~(b) The conservancy shall take whatever actions are reasonably~~  
17    ~~necessary and incidental to the management of lands under its~~  
18    ~~ownership or control.~~

19    ~~(c) The conservancy shall improve, restore, or enhance lands~~  
20    ~~under its ownership or control consistent with the purpose for~~  
21    ~~which the land was acquired.~~

22    ~~(d) The conservancy may enter into an agreement with a local~~  
23    ~~public agency, private entity, state agency, or federal agency to~~  
24    ~~carry out the management and restoration of lands under its~~  
25    ~~ownership or control.~~

26    ~~(e) The conservancy may acquire and hold any permits or other~~  
27    ~~authorizations necessary to carrying out its responsibilities.~~

28    ~~80511. (a) The conservancy shall implement habitat~~  
29    ~~restoration and management projects to achieve the ecosystem~~  
30    ~~goals of the comprehensive Delta sustainability program.~~

31    ~~(b) The conservancy shall cooperate, coordinate, and consult,~~  
32    ~~as necessary or appropriate, with any other agency or department~~  
33    ~~of the state, local public agency, or agency of the United States~~  
34    ~~having regulatory or other responsibility related to the authorities~~  
35    ~~and mission of the conservancy.~~

36    ~~(c) The conservancy shall take whatever actions are reasonably~~  
37    ~~necessary and incidental to the management of lands under its~~  
38    ~~ownership or control.~~



1     (d) *The conservancy shall improve, restore, and enhance lands*  
2 *under its ownership or control consistent with the purpose for*  
3 *which the land was acquired.*

4     (e) *The conservancy shall coordinate or assist in the*  
5 *implementation of local, state, and federal ecosystem projects,*  
6 *including the Bay Delta Conservation Plan and other overlapping*  
7 *or adjacent habitat conservation plans.*

8     (f) (1) *The conservancy shall develop and implement projects,*  
9 *consistent with the program, to maintain the economic and social*  
10 *viability of the Delta region.*

11     (2) *Projects developed and implemented pursuant to this*  
12 *subdivision may include, but shall not limited to, projects that do*  
13 *one or more of the following:*

14     (A) *Provide recreational opportunities and appropriate public*  
15 *access to natural resources in the Delta.*

16     (B) *Protect the viability of agriculture and Delta communities*  
17 *in the Delta, including physical and business infrastructure.*

18     (C) *Promote wildlife-friendly agriculture.*

19     (D) *Promote agricultural practices that reduce greenhouse gas*  
20 *emissions and increase carbon sequestration.*

21     (E) *Support the growth of agricultural tourism.*

22     (F) *Protect the viability of the Delta's legacy communities.*

23     (G) *Address the impacts from the implementation of the*  
24 *program.*

25     (g) *The conservancy shall coordinate with appropriate scientific*  
26 *entities to conduct necessary scientific studies.*

27     (h) *The conservancy shall assume responsibility, if offered, for*  
28 *local, state, federal, and private lands, or the management of those*  
29 *lands, within the Delta or Suisun Marsh.*

30     80512. (a) *In order to carry out the duties and responsibilities*  
31 *of this division, the conservancy may do all of the following:*

32     (1) *Accept, acquire, and hold real property, and interests in*  
33 *real property, from willing sellers or transferors in the name of,*  
34 *and on behalf of, the state for the purposes of implementing the*  
35 *comprehensive Delta sustainability program.*

36     (2) *Make grants or loans to local public agencies, nonprofit*  
37 *organizations, state agencies, and federal agencies, including*  
38 *grants and loans for the acquisition of real property, or interests*  
39 *in real property, from willing sellers or transferors.*

1     (3) *Use funds to directly undertake, or contract with local public*  
2 *agencies, nonprofit organizations, state agencies, and federal*  
3 *agencies to undertake appropriate actions identified in the*  
4 *program.*

5     (4) *Enter into agreements and intergovernmental agreements*  
6 *with local public agencies, nonprofit organizations, private entities,*  
7 *state agencies, and federal agencies for the implementation,*  
8 *including construction and management, of appropriate projects*  
9 *identified in the program.*

10    (5) *Acquire and hold any permits or other authorizations*  
11 *necessary to carry out its responsibilities.*

12    (6) *Implement projects or grant funds to address flood issues*  
13 *associated with conservancy projects.*

14    (b) *To the extent practicable, the conservancy shall use*  
15 *easements and cooperative agreements to achieve ecosystem*  
16 *restoration goals.*

17    (c) *The conservancy does not have the power of eminent domain.*

18     80513. The board shall report to the Legislature and Governor  
19 annually on the progress towards implementation of the measures  
20 identified in the comprehensive ~~delta~~ *Delta* sustainability program  
21 intended to restore and manage habitat in the ~~delta~~ *Delta* and  
22 Suisun Marsh.

23     80514. (a) The conservancy's expenses may be paid from the  
24 conservancy's operating budget, if one is provided for, and other  
25 funding sources available to the conservancy. Up to 5 percent of  
26 any funds appropriated by the Legislature may be expended to pay  
27 the administrative costs of the conservancy's expenses. Any funds  
28 appropriated by the Legislature to the conservancy may be used  
29 for grants or direct expenditure. The conservancy shall comply  
30 with all applicable provisions of law related to the appropriated  
31 funds in administering any funds appropriated by the Legislature.

32    (b) The conservancy also may accept both of the following:

33    (1) Funds provided by participants in the ~~Bay-Delta~~ *Bay Delta*  
34 Conservation Plan or other habitat conservation plans for  
35 implementation of those plans, to be managed consistent with those  
36 plans.

37    (2) Gifts, donations, bequests, devises, subventions, grants,  
38 rents, royalties, and other funds from public and private funds.

1		_____
2	CORRECTIONS:	
3	Text—Pages 2 and 3.	
4		_____

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